

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ARMEN YAPUNDZHYAN,
Plaintiff,
v.
SCOTT KERNAN, et al.,
Defendants.

Case No. [12-cv-03425-YGR](#) (PR)

**ORDER DISMISSING WITHOUT
PREJUDICE CLAIMS AGAINST
DEFENDANTS LEWIS, SHERMAN,
GAUCH, WILLIAMS, AND BATTER**

Plaintiff, a state prisoner, filed the present *pro se* prisoner action under 42 U.S.C. § 1983. The Court issued an Order of Service. Defendants G. Lewis, B. Sherman, G. Gauch, A. Williams, and Batter have not been served in this action.

As Plaintiff is proceeding *in forma pauperis* (IFP), he is responsible for providing the Court with current addresses for all Defendants so that service can be accomplished. *See Walker v. Sumner*, 14 F.3d 1415, 1422 (9th Cir. 1994); *Sellers v. United States*, 902 F.2d 598, 603 (7th Cir. 1990).

Pursuant to Federal Rule of Civil Procedure 4(m), if a complaint is not served within 120 days from the filing of the complaint, it may be dismissed without prejudice for failure of service. When advised of a problem accomplishing service, a *pro se* litigant proceeding IFP must “attempt to remedy any apparent defects of which [he] has knowledge.” *Rochon v. Dawson*, 828 F.2d 1107, 1110 (5th Cir. 1987). If the Marshal is unable to effectuate service through no fault of his own, e.g., because the plaintiff failed to provide sufficient information, the plaintiff must seek to remedy the situation or face dismissal. *See Walker*, 14 F.3d at 1421-22 (prisoner failed to show cause why complaint against prison official should not be dismissed under Rule 4(m) because prisoner did not prove that he provided Marshal with sufficient information to serve official or that he requested that official be served).

1 In an Order dated November 10, 2014, the Court informed Plaintiff that service had been
2 ineffective on Defendants Lewis, Sherman, Gauch, Williams, and Batter and directed Plaintiff to
3 provide the Court with the current addresses for these Defendants within twenty-eight days of the
4 Order. Twenty-eight days have passed, and Plaintiff has failed to provide the Court with the
5 aforementioned required information.

6 This action has been pending for over 120 days, and service upon Defendants Lewis,
7 Sherman, Gauch, Williams, and Batter has not been effectuated. Plaintiff has failed to show cause
8 why the claims against these Defendants should not be dismissed without prejudice pursuant to
9 Rule 4(m). Accordingly, all claims against Defendants Lewis, Sherman, Gauch, Williams, and
10 Batter are DISMISSED without prejudice under Rule 4(m).

11 IT IS SO ORDERED.

12 Dated: January 14, 2015


YVONNE GONZALEZ ROGERS
United States District Court Judge

United States District Court
Northern District of California